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BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE APPLICATION OF PINE WATER COMPANY FOR A DETERMINATION OF THE CURRENT FAIR VALUE OF ITS UTILITY PLANT AND PROPERTY, A RATE INCREASE AND FOR APPROVAL TO INCUR LONG-TERM DEBT.	**DOCKET NO. W-03512A-03-0279** **PINE STRAWBERRY WATER IMPROVEMENT DISTRICT'S RESPONSES TO FOURTH DATA REQUEST OF PINE WATER COMPANY**

THE PINE STRAWBERRY WATER IMPROVEMENT DISTRICT hereby submits its responses to the Fourth Data Request of the Pine Water Company.

Respectfully submitted this 2nd day of February, 2004.

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4.1 In his surrebuttal testimony Mr. Jones testifies, "however the District's case and the Staffs' concerns are generally "on target". What does the District mean when it testifies its case is generally "on target." In support of the response, state:

(a) Each allegation or claim by the District that has been found valid or otherwise upheld by the Commission in this case;

(b) Each objection by Pine Water to the District's discovery requests that has been upheld;

(c) The impact on the Company's rate case expense of each matter identified in (a) and/or (b) above.

ANSWER: #4.1 "On target" means that the District's case and the Staff's concerns are generally accurate and factual, and they address the key points of the Rate Hearing. The reader should keep in mind that for every approximate $7,000 error (lower/higher expenses, etc.) as described below, PWCo profits would be about 10% higher/lower than is targeted by the Commission (assumes $70,052 would be the allowed profits as described by Fernandez at Dt. 5 12-13). Please note that many of the allegations posed by the District are not measurable in terms of financial costs, but may be measurable in terms of service quality, confusing or misleading statements, inaccurate reporting to regulators, etc. It should also be noted that inconsistent and inaccurate answers abound in the testimony, responses to interrogatories, certified Annual Reports, and discovery provided to the District and the Commission. Some adjustments requested by the Commission Staff that the District had also identified are included below but remain the domain of the Staff.

#4.1-1 Improper Recording of Ownership of Subject Companies: The District's claim related to improperly reported ownership of the entities involved in this case has been admitted by PWCo. The ownership of PWCo and SWCo was misstated at the ACC Securities Division over a number of years between 1999 and 2002. Ownership of those firms was stated to be Crystal Investments, when now in fact PWCo claims Brooke Utilities, Inc. is the owner. ACC Securities Division Annual Reports of PWCo and SWCo have apparently been corrected by PWCo and SWCo. The current rates case has not been significantly impacted by this problem, however it did waste several days of the District's time to get to the apparent truth, although the District has been denied access to the stock book records of the entities to verify the points in question. Future rate case legal expenses will be affected if the costs of making these changes are permitted to be included in the allowable test year expenses by the Commission.

#4.1-2 Improper Payment of Property Taxes for Inter-affiliate Firms: PWCo's improper payment of property taxes for SWCo over the years of 2000-2002 (see Jones DT 8) has been admitted by PWCo at Bourassa Rt.21 21-26. Bourassa's excuse for these booking errors being "caused by the fact that the property tax bills are addressed to Brooke Utilities and not specifically addressed to Pine Water or to Strawberry Water" is hogwash, with each bill clearly indicating which entity should pay (see Exhibit XX Jones Surrebuttal). Had this improper activity not been caught by the District, PWCo would have test year expenses that would allow a $16,617 larger than justified recovery of expenses through rates, and if a 10% return on expenses (as recommended by Fernandez) was allowed by the Commission, an extra $1,661 profit would have been allowed, for a total excess recovery from ratepayers of $18,278.

#4.1-3 Improper Accrued Property Taxes: The balance sheet item of accrued property taxes on 12-31-02 appears way high at $29,001 on 12-31-02 test year for PWCo. This is explained by Bourassa at Interrogatory 34 as an error related to PWCo paying property tax bills that really belong to SWCo. If left standing, this excess accrual would allow the rate base to be excessively high (by the amount of the error), allowing for unjustified recovery of return of return on assets employed.

#4.1-4 Improper Recording of Repair and Maintenance Expenses: PWCo's improper recording of repair and maintenance expenses (see Jones DT 8-9) has been admitted by Bourassa at Rt. 26 22-26 and 27 1-7. Had this improper activity not be caught by the District, PWCo would have been able to maintain the $59,423 expense claimed in the 2002 test year, while -$0- was claimed for 2001, $11,261 for 2000, and -$0- for 1999. It is apparent PWCo has poor control over their accounting system or is deliberately moving expenses from company to company or from accounting category to accounting category. The accounting for repair and maintenance expenses is a good example of the allegations by the District that the accounting system, financial records, and financial statements are inaccurate, misleading, and basically out of control. Bourassa claims in Interrogatory 30 that the missing amounts for 1999 and

2001 are $16,325 and $4,447 respectively, and he adjusted the test year down from $59,000 to $42,000, thereby admitting a $17,000 overstatement of expenses for the test year.

#4.1-5 Improper Payment of Bills for Water Hauling for Inter-Affiliate Firms: Improper recording on the books of PWCo of hauling costs for inter-affiliate companies located at Tonto Basin and East Verde Estates (see Jones DT 9 and Jones Rt.18 15-20) has been ignored by PWCo. Supplying the District with bills paid by PWCo for water hauled to other subsidiaries of Brooke was a surprise, but is indicative of the poor accounting and control systems. The amount of improper bills paid over the years cannot be exactly determined, but it is obvious that PWCo has possibly overstated water-hauling expenses and, as such, test year expenses are likely overstated.

#4.1-6 Improper Reporting of Amounts and Sources of Purchased Water: Throughout the discovery process, PWCo appears to be unwilling to provide the answers to questions related to the correct levels and sources of purchased water. In answer to Interrogatory 1 which asks "what private individuals, other utility companies, or other entities does Pine Water Co. . . . acquire water from," Mistie Jared states that "PWCo acquires water from SWCo and Starlight Pines Water Co." No other suppliers are listed. Mr. Hardcastle makes the same claim that "PWCo has purchased water only from SWCo and Starlight Pines Water Co." in a reply to Interrogatory 14 related to terms of water supply agreements. However, the discovery documents from PWCo reflect water purchases from the additional following sources:

(a) Water Sharing Agreements with Solitude Trails Domestic Water Improvement District, Ferrari, and Bloom. Solitude Trails, it has been discovered, supplies 6-12 million gallons per year to PWCo, with over 8 million gallons supplied in the test year.

(b) Water hauling bills included with Attachment 5 of the PWCo answers to Interrogatory #3 were from Pearson Trucking and the bills indicate water was purchased from the Knolls (apparently another Brooke Utilities subsidiary) and the Knolls has not been disclosed as a source of purchased water. In addition, Sheet 82B attached to the response to Data Request 8 of the Commission Staff indicates PWCo purchased 235,000 gallons from Payson Water Co, Knolls subdivision, during the test year.

The importance of this misinformation goes to the credibility of the witnesses and to the fact that water losses were dramatically understated (7% compared to the calculated 30%) since not all acquired water pumped and purchased was included in the calculations when compared to the water sold. See 4.4 below for a full explanation of water losses.

#4.1-7 <u>Improper Recording of Costs of Purchased Water:</u> Recorded costs of water purchased from SWCo for $4.32/1000 (see Jones DT 10-11) is different than the cost reported by PWCo in their exhibits that contain invoices from SWCo for $3.85/1000 (see Appendix B to Interrogatories). This has not been directly refuted by PWCo. The unexplained excess expense of $.47/1000 gallons in the test year where 11,643,000 gallons were supplied would amount to $5,417which would result in excess recovery of expenses by PWCo if allowed to stand. In addition to this cost difference, Bourassa has claimed that water costs from SWCo are only $3.40/1000. Bourassa also admits at RT 22 16-21 that he has uncovered and "removed trucking costs of $39,720 from the test year as these costs are now covered by an adjuster mechanism" and he has accepted a $2,183 adjustment found during the Staff audit to further reduce purchased water expense. At Bourassa Rt.23 6-7, he admits there was $132,732 improperly classified as water hauling costs during 2000, which should have been contractual services. In an attempt to explain the real cost of purchased water and to overcome the massive inconsistencies of the Company records, Bourassa at Rt. 24 14-16 states that "Adjusted test year purchased water cost is actually $64,262 translating to a cost of $2.10 per thousand gallons". This $2.10 average cost seems highly unlikely since the bulk of the purchased water (over 11 million gallons) came from SWCo at $3.85/1000, and the 753,000 gallons from Starlight Pines is priced (including hauling charges which is also in this account) at $38-$43/1000. The District cannot determine the exact average cost of purchased water due to lack of full disclosure of water purchases under discovery disputes. The main point here is that the records of the Company have been full of significant errors for years, the total financial effect of the poor records is difficult to determine since other unfound errors have probably occurred. The Company should be subjected to a full certified audit and required to re-state the last three years of Annual Reports and financial records according to (a) Generally Accepted Accounting Principles, (b) NARUC Standards, and (c) the rules and procedures of the Commission.

#4.1-8 Inconsistent Testimony Related to Cost of Wheeling Water: On p. 11 of Bourassa's direct testimony he stated that the $533,599 inter-company payable on 12-31-02 was for "wheeling charges owed to Brooke Utilities for deliveries of water through Project Magnolia, the water transmission project owned and operated by Brooke Utilities". Later, at Rt. 29 8-9 Bourassa stated (related to the same $533,599 payable) that "$178,000 was related to financing of plant additions for 2000,2001,2002, and 2003". At Rt. 30 15-17 Bourassa admits related to the $533,000 payable "while in my direct testimony I indicated the inter-company payable was related to wheeling charges, I went on to say that Pine Water had not been able to pay all if (sic) its operating expenses as well as to fund plant additions". Detail of reported wheeling costs are:

> At Rt.30 4-5, Hardcastle states "annual operating expenses for the pipeline" are "approximately $33,000". At the answer to Interrogatory 21 18-19, he details additional information stating that the "operating costs are approximately $34,000 annually consisting of electrical power service, operations labor, repairs and maintenance, water treatment, depreciation" At Rt.30 20-21, Bourassa states that wheeling charges for 2001 (11 months only) were $267,780 and for 2002 were $176,144. The total charges from Brooke Utilities, Inc. to PWCo for 23 months added together were therefore $443,934. At a cost of $33,000 per 12 months, the monthly cost incurred in running the pipeline is $2,750 per month. For 23 months, the cost is $2,750 times 23, which equals $63,250. Dividing the $443,924 total of charges to PWCo by the $63,250 total costs for the period equals a markup factor of 6.81 times. Therefore, if wheeling charges are $15/1000 as they state, and it is based on a 6.81 multiplier over costs, the cost is determined by dividing the $15/1000 revenue by 6.81 which equals $2.20/1000.

The confusion related to wheeling costs is critical. On page 29 lines 3-11 of Bourassa' rebuttal, the cost of capital cannot be adequately determined until the issue of how much of the $533,000 inter-company payable is caused by wheeling costs and how much is for plant additions. At this point, he claims that

"$178,000 of the $533,000 was related to financing of plant additions for 2000, 2001, 2002, and 2003". At Rt. 32 20-25, he claims that $443,924 of the $533,000 is for wheeling charges. Adding $178,000 to $443,924 equal $621,924, which is more than the $533,000 by $88,924. This amount is not accounted for since facts do not add up, and financial presentations are inconsistent, confusing, and misleading. As Mr. Hardcastle at Rt. 28 19-22 has recognized, I have called the wheeling costs "highly suspect" and alleged that transactions between the Company and its shareholder are "conflicts of interest". This is still a major concern. His acknowledgment that the Wheeling agreement between Brooke and PWCo was not conducted at arms-length and is fairly within the scope of this proceeding" is encouraging (Hardcastle Rt. 29 1-5). The rate base is significantly affected by the ruling on ownership of the pipeline, however the allowable cost related to use of the pipeline is even more critical with over $375,000 of profit (over 23 months) having been recorded by Brooke based on their claim of ownership of the pipeline. Related to the issue of costs of operating the pipeline, PWCo supplied an incredulous *Analysis of Project Magnolia Surcharge* to the commission as a proposed cost to rate-payers for use of the pipeline. The most amazing part is that proposal was that PWCo wanted to markup the annual operating costs of $35,884 by 40% to pay income taxes (prior to calculating a return on investment, which ROI should not be calculated if there is a negative net worth). How PWCo concluded that an income tax should be assessed on "gross expenses" rather than "net" income (revenue minus expenses) is beyond me other than to think they believe the Staff, the Commissioners, the District, and the rate-payers are all very gullible! Using this formula appears to be a feeble attempt to justify their current $15/1000 wheeling charge to PWCo. Even using that serious flawed procedure including a 10.62% return on investment, their calculations still came up with an $8.60/1000 surcharge including the ridiculous income tax of $18,344 on expenses (not income) of $35,884. The $8.60 is only 57% of the $15/1000 rate, however if taxes were applied on net income (estimated at 10% of the $35,884), the surcharge would be about $3.39/1000 ($35,884 + 10% = $39,472 divided by 11.643 million gallons = $3.39/1000). The $3.39/1000 charge, rather than the $15/1000 charge used for almost three years by Brooke to assess PWCo for use of the Magnolia Project is now approaching the $2.42/1000 estimated number Mr. Jones believes is the fair rate for use of the pipeline. Again, inconsistent testimony, records, and reports are difficult to reconcile and are what ultimately results in misstatement of facts, confusion, and misleading information.

#4.1-9 Unexplained Miscellaneous Operating Expenses: AT Jones DT 12, miscellaneous operating expenses amounting to $55,761 to $124,658 (as high as 23% of revenues in 1999-2000) remain unexplained. If they remain unexplained, the basis for test year expenses could result in excess recover of expenses.

#4.1-10 Unexplained Differences in Rate Application Financial Data and Annual Report Data for the Same Expenses: The Schedule E-2 page in the Rate Application has a line items such as "transportation" that vary by $132,000 (year 2000) and items like "Purchased Water" that vary by 20%-25% in 2001 and the 2002 test year from what is reported on the Annual Reports to the ACC. These categories with significant cost totals ($87,000 to $132,000) remain completely unexplained and yet have a significant and material effect on allowable expenses and the rate base when both the net assets employed and revenues are less than $700,000-$800,000 per year.

#4.1-11 Improper and Inconsistent Accounting for Water Losses: Improper accounting for large water losses in the Annual Reports and other direct and rebuttal testimony by Bourassa and Hardcastle makes the certified reports and the testimony related to this expense misleading. PWCo seems to consistently understate the amount of purchased water by only reporting as "purchased water" the amounts from Strawberry Water and Starlight Pines, while ignoring the purchases from Solitude Trails, Farrari, and Bloom. Water losses are near 30% not the 7% the company claims (see 4.4 below). A summary of the inconsistencies of water loss testimony and reports is:

- In there 2002 Annual report they indicated they pumped 43.7 million gallons (p.11)and purchased 11.6 million gallons from Straberry-Pine pipeline and .753 million gallons from Starlight Water Co. (p.9). for a total of 56.0 million gallons available for distribution. They showed 52.0 million gallons sold on p. 11 of the same annual report. With their numbers, they then calculated a loss of 4.0 million gallons out of 56.0 million, or 7.3%.
- On p. 5 of the Exhibit of the Staff Engineer's report, he used the 11,643,000 gallons purchased through Magnolia, plus 753,000 gallons hauled by Pearson Transportation, for the 12,396,000

total purchased. He indicated a number of pumped/purchased at 56,107,000 available and 52,006,014 gallons sold, to arrive at the same 7.3% loss.

- In my direct testimony on page 17, I indicated they failed to include 8.4 million gallons Fumusa sold them, so added to the 56 million available, the available total was now 64.4 million gallons. With only 52 million sold per their annual report, the loss percentage was at least 19.3%.
- On page 24 of Bourassa's rebuttal testimony, he stated "For starters, the number for the purchased gallons is grossly understated. In 2002, Pine Water purchased 30,584,000 gallons, not 12,396,000 gallons as used by the District". Thus, if we add the 43,711,000 pumped to the 30,584,000 they now say is purchased, the difference between the total 74,295,000 available and the 52,006,014 sold is now 30.0%.

#4.1-12 Inaccurate Records in Inter-affiliate Firms that May Affect PWCo Costs Incurred: If inaccurate records exist at Brooke Utilities or at Strawberry Water Co. for expenses that are inter-company transferred to PWCo or are used to base pricing on for PWCo, the rate based and allowable expenses at PWCo would also be unnecessarily under- or overstated. The 2002 Annual Report for Strawberry Water Co. indicates they purchased $21,158 of water in 2002 (certainly to ship down Magnolia to PWCo), however on page 9 of the same report, they indicated no water was purchased. Also, the same Annual Report for SWCo at page 11 indicates 50,151,790 gallons were pumped, yet only 32,451,257 gallons were sold. They don't have the capacity to store the 18 million gallon difference, so what happened to the water and the costs and how did it affect PWCo? The point being, this difference is not explained and the inconsistency in record keeping is likely rampant in the inter-related companies that pass expenses to PWCo. PWCo costs transferred from inter-affiliates are very significant and cannot be properly analyzed or relied upon without access to inter-affiliate records. Related to this same situation of inaccurate or confusing inter-affiliate relationships and transferred costs is the pending question of ownership and cost of operation of Project Magnolia currently before the Commission.

#4.1-13 Misreporting of Shared Employees: At Interrogatory 2, PWCo was asked if the entities of Brooke and its subsidiaries and parent companies share the same employees, officers, directors, shareholders, or creditors and it was answered by Hardcastle and Jared that they "shared officers and directors," but did not state anything about additional employees being shared. However, in the response to Data Request #5 from the Staff, PWCo provided a list of many employees whose compensation is allocated to PWCo and other firms related to Brooke Utilities. The importance of this information is that the District does not know if these costs are fairly allocated to the subsidiary firms if they are not told who the people are. The District does not know how work for the Pine system gets done if PWCo has no employees of any kind. Inter-affiliate questions come heavily into play in this area of questioning. Without access to the books of Brooke, the cost or effect on the rate base of this misleading information cannot be determined.

#4.1-14 Misstatement as to Whom Really Owns Project Magnolia: At Interrogatory 8, Hardcastle states "Brooke Utilities is the sole owner of Project Magnolia". Yet, Staff that had access to additional records outside of the three years of records provided to the District stated at Fernandez Dt. 8 2-4 that an important element in support of his argument that the pipeline should be returned to the books of PWCo was "the fact that the application (filed February 23, 1999) reflected approximately 75 percent of Project Magnolia's cost in the books and records of the Company clearly established ownership status" for PWCo. Hardcastle's claim at Rt.21 that "all of the permits, rights-of-way" and "costs for constructing" and "all of the costs associated with operating and maintaining" Project Magnolia were paid for by Brooke may be correct, however it is very likely all of this activity was performed as an "agent" for PWCo. PWCo has no staff personnel in the company and seemingly has Brooke Utilities or other outside service entities do everything for the Company on a "sub-contract" or "agency" basis. PWCo is a shell company that subcontracts most everything to its parent company, even its President that is shared with many other inter-affiliate firms. The Commission has noted that this issue of ownership of Project Magnolia as so important it has properly "tabled" the Company's request for interim rate relief until ownership of the pipeline can be definitively determined. Besides the very basic ownership issue related to the pipeline, I agree with Mr. Hardcastle's response that the role of the Commission in this matter is "to determined the appropriate expense level associated with Pine Water's cost of having water transported into the Pine Water system through the pipeline". This approach of evaluating the expenses incurred operating the pipeline is much more logical than continuing a belief espoused elsewhere in his testimony that the appropriate charges to PWCo for Brooke operating the pipeline should be based on the alternate strategy of being "just" somewhat less than the cost of hauling water by truck Hardcastle Dt. 27 17-20. In terms of the effects on the current rate-case of errors, misstatements, or wrong information supplied by the Company, the situation of PWCo reflecting the $17,040 in CWIP on records of PWCo makes it clear that sloppy and misleading records consistently occur at PWCo. However, Hardcastle wants to just pass the ownership situation off as an error by stating at Rt. 22 21-23 that "there is obviously a serious error with respect to that listing" and at Rt.23 5-6 that "In other words, our plant detail schedule in the last rate case was mistaken, at least with respect to Project Magnolia". The position of Hardcastle at Rt. 27 7-10 that the District recognizes that Project Magnolia is owned by Brooke Utilities" based on Jones testimony Dt. at 6 and the *Investigation of Groundwater Availability* at 3 is groundless since Mr. Jones and the authors of the study were simply re-stating what PWCo has claimed is their rate hearing application.

#4.1-15 Incorrect Statements Related to Failure of Water Quality/Operating Issues/Reporting Issues: PWCo and SWCo both failed to submit required Consumer Confidence reports (classed as a "major" violations) to ADEQ and they did not report that fact for PWCo at Interrogatory 18. Again, this type response goes to witness credibility and brings into question cost of necessary operational controls or procedures.

#4.1-16 Misuse of the NARUC System of Accounting/Incorrect Classification of Transportation Expenses: PWCo has regularly misclassified expenses in various categories. For example, transportation expenses to be recorded in account #650 (according to the NARUC system of accounts) are to "include all truck, automobile, construction equipment, and other vehicle expenses chargeable to utility operations, except depreciation and insurance." Clearly, wheeling charges do not belong in this account. Three lines above in the NARUC Chart of Accounts on p.120 is the correct account #636 that should be used for "wheeling" charge services provided on a contractual basis, such account titled "Contractual Services-Other." Bourassa admits at Interrogatory 28 that Transportation expenses for the year 2000 were misclassified at the E-2 schedule and that "transportation" has been used to account for the cost of contractual services for wheeling provided by Brooke. The use of the wrong accounting categories adds to confusion, misunderstanding, and improper analysis. Costs of wheeling, done under an outside contract, are to be accounted for simply as Contractual Services-Other per NARUC standards, as required by the Commission. In addition to the issues of where to properly record wheeling charges, the cost of purchased water is often confused with meter reading costs. Patricia Behm's meter reading costs are often charged to the Purchased Water account rather than to Contract Services-Other (see Responses CF5-2 and CF5-6 to Data Requests #5 from Staff. Total financial effects of misapplication of the accounting system are difficult to compute until all errors are uncovered in an audit.

#4.1-17 <u>Improper Expenses Identified by Staff</u>: At Bourassa RT, page 13, he concedes the Company accepts Staff's (a) proposed adjustment to Sales Tax expense, (b) plant-in-service, (c) material and supplies expense, and purchased water. These types of admissions, when considered with other adjustments and questions form the District, significantly reduce confidence in the accuracy and reliability of the records and the testimony.

#4.1-18 <u>Disagreements Over Efforts to Find Additional Water Resources:</u> The District has maintained at Jones Dt. 16 that PWCo has spent little effort and resources in an attempt to locate or develop adequate sustainable long-term water resources for the certificated area. The lack of PWCo participation in broad-based efforts to develop resources is covered in Jones Dt. 16. The efforts of Pine/Strawberry Water Improvement District, the Northern Gila County Water Alliance Borehole Project, The Bureau of Reclamation Regional study, and the efforts of Strawberry Hollow Domestic Water Improvement District appear to be disregarded by PWCo based on their apparent believe that no additional water is to be reasonably found or developed in the Pine/Strawberry area (Hardcastle Rt.2). No one study, including the *Investigation of Groundwater Availability* study commissioned by the District are, on there own, absolute definitive answers or conclusion related to the water problem (even if Intervener Breninger personally claims "We Have the Water"). Mr. Hardcastle's notion is wrong that because the District paid for its own study, the study is "right" and is the "gospel", and therefore the District is contradicting itself anytime it takes a position different than its own study. The Borehole project, supported by Gila County, PSWID, Forest Service, State Land, and others has provided encouragement to Loren Peterson, a private landowner, to move forward to the near completion of the Strawberry Hollow DWID's new well (a high-potential significant source of added water to the Pine area). Those two projects (Borehole and Strawberry Hollow project), and the dramatic lack of water in Pine in the summer of 2001 encouraged completion of the 2003 $120,000 PSWID study that concluded large supplies of water may be available in the northwest corner of Strawberry. The hydrologist that completed the Strawberry Hollow project, and a lead person on the Bureau of Reclamation project has provided testimony for the District (see Response to Data Request No. 3) indicating actual significant water resources exist under Pine at depths below the resources tapped by PWCo and most private well owners in Pine, with such water available at strata depths that are very economical to tap for production wells. The argument of PWCo that the new developments over the years are a major cause of water shortages is unjustified since the major new developments are neutral or net suppliers of water to the Pine area. PWCo purchases 8-12 million excess gallons per year from Solitude Trails Water District (about 15%-20% of total PWCo usage). The Homeowners Association of Portals III has notified the District it is concerned from a legal point of view that over the years it has always been a net supplier to the rest of the Pine community, yet its rate-payers are being subjected to harsh augmentation surcharges even though its wells (previously sold to PWCo) always produce adequate water for its area, and almost always excess water that is consistently used by the rest of Pine community. Portal IV and Strawberry Hollows claim they have never been short of water and have had adequate resources to easily service their own District's demands. Thus, the criticism of lack of efforts to find new water resources by PWCo (over eight years) and its predecessors (over many prior years) seem highly justified and unanswered by PWCo. The cost of this situation, in terms of the current rate case of PWCo is difficult to determine, however if there was a reasonable and cooperative effort by PWCo into finding and developing adequate water resources (a key requirement under the CC & N), most of the concerns related to augmentation surcharges, usages and ownership of pipelines, hauling of water by trucks, and concerns over 41 percent rate increases would go away.

4.2 In his surrebuttal testimony Mr. Jones testifies, "the historical figures [for property taxes] need to be adjusted to remove these overpayments from the historical figures prior to determining the real costs of property taxes in 2000, 2001, and 2002." Explain what impact this adjustment would have on the determination of rates in this proceeding and identify what impact the alleged incorrect recoding has on the rates at issue in this proceeding. Please provide schedules to support the rate impacts identified.

ANSWER: #4.2 The historical figures should be corrected at the present time so that if the Staff or future interveners look at trends of data in the future, they will not be mislead by property tax expenses that were overstated in 2000, 2001, and 2002. Obviously, the overstatement of the $16,617 paid by PWCo for SWCo in 2002 has a major influence on the allowable test year expenses in the current case (see 4.1-2 above). Re-coding of expenses for 2002, if correctly made, will adjust the property tax expenses in 2002 to the correct level. The balance sheet at 12-31-02 would also need to be corrected for the level of accrued taxes that are overstated based on booking excessive taxes in prior years.

4.3 In his surrebuttal testimony, Mr. Jones testifies that Pine Water and its advisors made "massive errors, misleading statements, improper accounting, use of wrong accounts, etc." Identify every incident of error, misleading statement, improper accounting, use of wrong accounts, etc. of which the District has or claims to have knowledge. For each incident identified in this response, state the impact such incident had on the rates at issue in this case, including quantifying the impact on the Company's requested rate increase in dollars.

ANSWER: #4.3 See #4.1 above.

4.4 Explain the basis for Mr. Jones' surrebuttal testimony that this disclosure by Bourassa also, makes the water lost to leaks move from the reported 7.3% (accepted by the Staff based completely on the Company's reports) to 30.0%, which is unacceptable." Please provide calculations supporting Mr. Jones' testimony and identify the person or persons making such calculations. .

ANSWER: #4.4 See Response #4.1-11

4.5 In his surrebuttal testimony, Mr. Jones testifies, "the major adjustments, corrections, and restatements he has made to the test-year case are ample evidence of the Company's sloppy and misleading presentation of the facts." Identify each and every adjustment, correction, and restatement Mr. Bourassa made in the Company's rebuttal filing and quantify the impact on rates each such has on the rate relief being sought by the Company.

ANSWER: #4.5 Not all adjustment, corrections, and restatements were accounted for in Mr. Bourassa's rebuttal testimony. However, see 4.1 for the record.

4.6 In his surrebuttal testimony, Mr. Jones states, "a simple correction of property taxes to the correct levels will change investment return by a substantial percentage." Please explain the basis for this statement and provide calculations showing the impact on the Company's earned rate of return during the years in questions from the adjustment the District suggests be made.

ANSWER: #4.6 See 4.1-2.

4.7 Provide copies of any and all resolutions by the District's Board authorizing a feasibility study to determine if it would be wise for the District to attempt a purchase or condemnation of the assets of Brooke Utilities, Pine Water and/or Strawberry water and provide any such studies that were prepared as a result of such resolutions.

ANSWER: #4.7 See attached Exhibit 4.7.

4.8 In his surrebuttal Mr. Jones expresses the District's belief that for less than $10 per month per parcel in Pine and Strawberry, a long-term solution for much of the problem can be reached." Explain the basis for the District's belief, including its calculation of such cost and an identification of how such amount would specifically be spent.

ANSWER: #4.8 The District advisors and consultants preliminary estimates of (a) asset acquisition costs in the Economists.com report were $3.0 million to $4.3 million (subject to negotiation, due diligence, inspections by engineering consultants, etc.) and (b) system repair/capital improvements and acquisitions of new water sources were together estimated to be $6,000,000. The rough $10 million total if paid by 4,500 lot owners who could be assessed and bonded at 5% for 40 years is a $9.67 amortized cost if paid by the month of 40 years.

4.9 In further response to support Mr. Jones' testimony referred to in data request 4.8, above, identify the location of additional water resources, the manner in which such resources would be made available to serve Pine Water's customers and the amount of additional water that would be produced.

ANSWER: #4.9 There are current well owners and Water Improvement Districts, and future private well owners that would provided additional water to the Pine community if they had more faith in the operations and integrity of PWCo and Brooke Utilities. Exact locations to drill or to pump water from existing wells, and the expected quantities of water would not be determined until further hydrological studies are completed.

4.10 Admit that all of the necessary permits, rights-of-way and/or easements associated with Project Magnolia are in the name of Brooke Utilities.

ANSWER: #4.10 The District has no way to know that is the case. In fact, if that exists, it may not matter if Brooke Utilities was in fact acting as an agent for Pine Water Co. or if PWCo is the real owner of the Magnolia Project.

4.11 Admit that all of the costs of constructing Project Magnolia were borne by Brooke Utilities

ANSWER: #4.11 The District has no way of knowing if that is the case.

4.12 Admit that there is no evidence of financing Project Magnolia appearing in Pine Water's books or records.

ANSWER: #4.12 The District has no way of knowing if financing of Project Magnolia was fully on the books and records of PWCo, however the evidence exists per Mr. Fernandez direct testimony that the pipeline project was on the CWIP account and the plans of PWCo during the late 90's.